

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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ABETH HASHIMI,	:	
	:	
Plaintiff,	:	ORDER ADOPTING REPORT
	:	AND RECOMMENDATION
– against –	:	
	:	24-CV-587 (AMD) (TAM)
	:	
SENECEA MANAGEMENT CORP. AND	:	
COCINA MAMA ROSA LLC,	:	
	:	
Defendants.		
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ANN M. DONNELLY, United States District Judge:

The plaintiff brought this action against a restaurant and its landlord on January 26, 2024, alleging violations of the Americans with Disabilities Act. (ECF No. 1.) On February 12, 2024, the plaintiff filed proof that the defendants were served. (ECF Nos. 7, 8.) On April 11, 2024, after the defendants did not appear or otherwise defend this action, then Magistrate Judge Sanket J. Bulsara directed the plaintiff to request certificates of default by May 13, 2024, and to file a motion for default judgment within sixty days after that. (*ECF Order dated Apr. 11, 2024.*) The plaintiff requested the certificates of default on May 9, 2024 (ECF Nos. 13, 14), which the Clerk of Court noted on the docket on May 17, 2024 (ECF Nos. 15, 16).

On August 19, 2024, after the deadline to file a motion for default judgment had passed, Judge Bulsara gave the plaintiff a “final opportunity” to file his motion by September 19, 2024. (*ECF Order dated Aug. 19, 2024.*) The plaintiff filed his motion on August 20, 2024. (ECF No. 17.) Judge Bulsara denied this motion without prejudice because it did not comply with Local Civil Rule 55.2, and gave the plaintiff until December 10, 2024, to file a revised motion. (*ECF Order dated Sept. 26, 2024.*) After the plaintiff missed that deadline, this Court directed him to

file a revised motion by January 16, 2025, and warned him that “failure to adhere to the Court's deadline will result in dismissal of this action.” (*ECF Order dated Dec. 17, 2024*.) The plaintiff did not file a revised motion.

In a February 14, 2025 Report and Recommendation, Magistrate Judge Taryn A. Merkl recommended that the Court dismiss the case for failure to prosecute. (*ECF No. 19*.)¹ Judge Merkl determined that the plaintiff's failure to prosecute his claims had caused a significant delay, that he received proper notice about the risk of dismissal, and that future delay would prejudice the defendants. (*Id.* at 4.) Additionally, Judge Merkl found that the plaintiff's actions wasted judicial resources and dismissal was the only appropriate option. (*Id.* at 5.) No party has filed an objection to the report and recommendation and the time for doing so has passed.

A district court reviewing a report and recommendation “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept a report and recommendation to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” *VOX Amplification Ltd. v. Meussdorffer*, 50 F. Supp. 3d 355, 369 (E.D.N.Y. 2014).

The Court has carefully reviewed Judge Merkl's thoughtful report and recommendation for clear error and finds none. Accordingly, the Court adopts the report and recommendation in its entirety. The plaintiff's complaint is dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to close the case.

¹ This case was reassigned from Judge Balsara to Judge Merkl on December 23, 2024.

SO ORDERED.

s/Ann M. Donnelly

ANN M. DONNELLY

United States District Judge

Dated: Brooklyn, New York
March 4, 2025